

REMARKS

Applicant appreciates the Examiner's thorough review of the present application, and respectfully requests reconsideration in light of the preceding amendments and the following remarks.

Claims 2-7, 14, 16-18 and 22-32 are pending in the application. Claims 1, 8-13, 15, 19-21 have been cancelled without prejudice or disclaimer. Claim 2 has been rewritten in independent form including all limitations of base claim 1. Claims 5-6 and 14 have been amended only to improve claim language without otherwise touching the merits. Claims 22-32 have been added to provide Applicant with the scope of protection to which he is believed entitled.

No new matter has been introduced through the foregoing amendments.

The Examiner's withdrawal of the previously applied art in favor of newly discovered reference of *Hirtl* (U.S. Patent No. 5,884,828) is noted. In view of the Examiner's new rejections, some claims have been cancelled to simplify the issues. The rejections of the remaining claims, especially *original* claims 2-7, are traversed because the applied references do not fairly disclose, teach or suggest all limitations of these claims.

In particular, the 35 U.S.C. 102(b) rejection of claims 2-4 as being anticipated by *Hirtl* is traversed because the reference fails to teach or disclose each and every element of the rejected claims, especially the claimed "**engagement means** for engaging the piston in a forward position in the barrel" and "**displacement means for displacing the engagement means rearwardly** to thrust the piston rearwardly" recited in original claim 2 which has been rewritten in independent form.

The *Hirtl* reference, including column 4, lines 3-6 cited by the Examiner, does not expressly teach or disclose engagement means for engaging the piston. The reference does not inherently teach or disclose engagement means because the Examiner fails to provide "a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis added). Thus, the claimed engagement means are not disclosed by *Hirtl* either expressly or inherently.

The *Hirtl* reference clearly fails to teach or disclose displacement means for displacing the engagement means *rearwardly*. Note, spring 23 of *Hirtl* acts to push barrel 4 *forwardly*. See column 3, lines 26-32 of *Hirtl*.

Accordingly, the anticipatory rejection of claim 2 as well as claims 3-4 depending therefrom is inappropriate and should be withdrawn.

The 35 U.S.C. 102(b) rejection of claim 14 as being anticipated by *Hirtl* is traversed because the reference fails to teach or disclose each and every element of the rejected claims, especially the claimed “resetting mechanism **connecting the barrel and the piston** for automatically **resetting the piston from the second forward position to the second rearward position in response to a return movement of the barrel from the first rearward position to the first forward position**”.

The *Hirtl* reference, including column 4, lines 3-6 cited by the Examiner, does not expressly teach or disclose a resetting mechanism connecting the barrel and the piston. The reference does not inherently teach or disclose a resetting mechanism connecting the barrel and the piston because the Examiner fails to provide “a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis added). Thus, the claimed resetting mechanism is not disclosed by *Hirtl* either expressly or inherently. Also, note the opposite travels of the piston and barrel during resetting, i.e., the piston moves *rearwardly* in response to a *forward* travel of the barrel. The applied references fail to disclose, teach or suggest this unique feature of the claimed invention.

Accordingly, the anticipatory rejection of claim 14 is inappropriate and should be withdrawn.

The 35 U.S.C. 103(a) rejection of claims 5-7 as being obvious over *Hirtl* in view of *Jochum* (U.S. Patent No. 5,538,172) is traversed at least for the reasons advanced with respect to claim 2 from which claims 5-7 depend.

The 35 U.S.C. 103(a) rejection of claims 16-18 as being obvious over *Hirtl* in view of *Jochum* is traversed at least for the reasons advanced with respect to claim 14 from which claims

16-18 depend. The rejection of claims 16-18 is also erroneous because the references fail to disclose, teach or suggest the limitation of claim 16 that potential energy stored in said spring in response to the recoil movement of said barrel is *not released until said barrel has passed an intermediate location* between the first rearward position and the first forward position on the return movement. In *Hirtl*, spring 23 *immediately* releases the energy stored therein at the beginning of the return movement of said barrel.

As to claim 17, the references fail to disclose, teach or suggest the claimed **latch**.

New independent claim 22 is clearly patentable over the applied references because the references fail to disclose, teach or suggest the claimed barrel assembly comprising a first portion, a second portion axially moveable relative to the first portion and a **resilient element being interposed between and connecting the first portion and the second portion**. The barrels of *Hirtl* and *Jochum* do not include a resilient element.

Claims 23-32 depend from claim 22 and are considered patentable at least for the reason advanced with respect to claim 22. Claims 23-32 are also patentable on their own merits since these claims recite other features of the invention neither disclosed, taught nor suggested by the applied art.

As to claim 23, the applied art of record fails to disclose, teach or suggest a rear stop *only for the first portion* of the barrel assembly whereas the second portion of the barrel assembly is allowed to travel further rearwardly. See Fig. 2 and page 7, lines 15-18 of the specification. In the barrel structure of *Hirtl* and *Jochum*, the entire barrel stops or moves together.

As to claims 24-28, the applied art of record fails to disclose, teach or suggest the claimed locking element. See element 40 in FIG. 3 and page 7, lines 25-30 of the specification.

As to claims 29-30, the applied art of record fails to disclose, teach or suggest the claimed first and second bodies and gripping surface which is moved radially inwardly to grip the piston when the first and second bodies are in a first relative position and radially outwardly to *release* the piston when the first and second bodies are in another, second relative position. See elements 22-24 in the figures and page 6, lines 13-25 of the specification. The structure of claims 29-30 prevents

the gripping surface or ball from exerting a gripping force on the piston in driving operation. See page 7, lines 1-4 of the specification. In contrast, the balls of *Jochum* always exert a gripping force on the piston, even during driving operation, which is unnecessary and undesirable. The balls of *Jochum* are readable at best on the pads 26 (FIG. 1) of the present invention and are not readable on the structure claimed in claims 29-30.

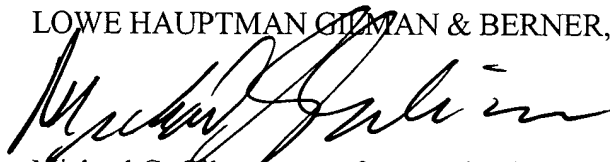
As to claim 32, the applied art of record fails to disclose, teach or suggest that the barrel assembly further includes a third portion which is connected to the first portion by a spring interposed therebetween.

Each of the Examiner's rejections has been traversed. Accordingly, Applicant respectfully submits that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Michael G. Gilman", written over the printed name.

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